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NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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COMMISSIONER OF COMMERCIAL TAXES

FINALIZED THE INTEGRATED SENIORITY LIST OF DCTOs FOR THE PANEL YEAR 2004 - 2005.

- Ref:- 1. CCT's Ref.DZ(2) / 195 / 2014, dated : 27-03-2014.
2. TS CCT's Ref.DZ(2) / 79 / 2014, dated : 01-05-2015.
3. A.P. Extraordinary Gazette No. 163, dated : 15-06-2015.
4. Govt. Memo No.20951 / CT.I(1) / 2015, dated : 18-11-2015.
5. CCT's Ref.DXZ(3) / 947 / 2015, dated : 16-02-2016.
6. Govt. Memo No.20951 / CT.I(1) / 2015, dated : 25-04-2016.
7. CCTs Ref.No.DXZ(3)397 / 2016, dated : 18-01-2017.

CCT's Ref.No.DXZ(3) / 397 / 2015-2,- In the reference 1st cited a show cause notice was issued, calling objections on the proposed integrated seniority list of DCTOs for the panel year 2004-2005, which was prepared by taking each one from each zone method. The same was not finalized before bifurcation of the state.

In the reference 2nd cited, the Commissioner (CT), Telangana opined that while preparing the proposed integrated seniority list of DCTOs, the guidelines for preparation of seniority lists issued by the Hon'ble High court of A.P. in W.P. No.24335/1999, dated 09.04.2001 was not followed and also which is against the Rule 33 (a) of APS & SS Rules, 1996.

After, detailed discussions, both the Commissioners of Andhra Pradesh and Telangana States finalized the integrated seniority list of DCTOs for the panel years 1975-76 to 2004-05 in different spells on 03.06.2015, strictly following the directions of the Hon'ble High court of A.P. in W.P. No.24335/1999, dt.09.04.2001 and Rule 33 (a) of APS & SS Rules, 1996. The same was published vide reference 3rd cited.

Against the integrated seniority list of DCTOs for the panel year 2004-5, certain DCTOs of Zone-I filed appeal petition before the Government questioning the integrate seniority lists finalized by the Commissioner of Commercial Taxes on the ground that they were not given an opportunity to submit their objections before finalizing the lists. In the reference 4th cited the Government have forwarded the appeal petition and requested to furnish the detailed report along with specific remarks and connected records relating to the Integrated seniority lists published in Gazette No. 163, dt. 15.06.2015 for further examination of the matter.

As per instructions of the Government vide reference 6th cited, and as per consent given by the Commissioner of Commercial Taxes, Telangana, it is decided to give an opportunity to affected persons, who were included in the panel year 2004-05 at zonal level and as well in integrated seniority list of DCTOs for the panel year 2004-05.

In the reference 7th cited the State-wide integrated combined seniority list of DCTOs for the panel year 2004-05 was communicated to the persons of Zone-I covered and requested to file their written statement of objections, if any, within (15) days from the date of issue of this Notice (or) publication of this Notice in the departmental website, failing which, it will be construed that they have no objections to the proposed combined seniority and that orders will be passed without further notice or time.

In response to the above notice the following individuals submitted their objections and the same are discussed and answered hereunder.

1. Smt A. Kalyani, Deputy Commercial Tax Officer, presently working as Manager (Gazetted) O/o. Deputy Commissioner (CT) Visakhapatnam Division.
 2. Smt S.Srilakshmi, Deputy Commercial Tax Officer, presently working as in the O/o. CTO, Kurupam Market Circle, Visakhapatnam Division.
 3. Smt Ch.Kondamma, Deputy Commercial Tax Officer, presently working in the O/o. CTO-I, Chinawaltair Circle, Visakhapatnam Division.
 4. Smt M.Suneetha Rani, Deputy Commercial Tax Officer, presently working in the O/o. CTO, Kurupam Market Circle, Visakhapatnam Division.
 5. Smt R.Anasuya, Deputy Commercial Tax Officer, presently working in the O/o. CTO, Narasannapeta Circle, Visakhapatnam Division.
1. The seniority Lists of Deputy commercial Tax Officers of all Six Zones were published in Extra Ordinary Gazette of Andhra Pradesh signed by the Commissioner of Commercial Taxes, Andhra Pradesh and Telangana, in the Gazette No 163 Dt: 15-06-2015, her place was altered, surprisingly by adding a Column 'the date of arising vacancy' which never was mentioned in the show cause notice.
 2. As seen from the contents of the notice, for finalization of seniority, Rules 33(a), 34 and 36 of the A.P. State and Subordinate Service Rules, nowhere in the said rules, there is anything to suggest that the seniority lists have to be finalized as per date of arising vacancy. On the contrary, for calculation of seniority, the date of appointment i.e., date of joining in respect of directly recruited persons and date of commencement of probation in respect of promotees. Hence, the seniority lists is violative of Rule 33, 34 and 36 of A.P. State and Subordinate Service Rules. The term 'seniority' which is not defined in any Services Act, the term 'seniority' in the public services is longer length of service in the very same grade or cadre. A person appointed or promoted earlier is always senior to the a person appointed or promoted later. A person confirmed earlier takes precedents over a person not confirmed or confirmed later. Sri A. Janardana Vs Union of India, 1983 (2) SLR 115 (SC), the Hon'ble Supreme Court of India held that it is a well recognized principle of service jurisprudence that any rule of seniority has to satisfy the text of equality of opportunity in public service as enshrined in Article 16 of the Constitution.
 3. Rule 33(a) of the Andhra Pradesh State and Subordinate Service Rules, 1996 lays down that "seniority of a person in service, class, category or grade shall, unless he has reduced to a lower rank as a punishment, be determined by the date of his first appointment to such service, class, category or grade."
 4. Rule 33(b) of the Andhra Pradesh State and Subordinate Service Rules, 1996 says that where, however, a person is transferred from one class or category of service to another, carrying same pay or scale of pay, he shall not be treated to have been appointed in the first time to the later class or category of service. His seniority shall be determined with reference to the date of his first appointment in the former class or category of service.
 5. Rule 33 of the Andhra Pradesh State and Subordinate Service Rules, 1996, the seniority of the incumbent appointed to service category etc., the scope of applicability of this rule was discussed by the Hon'ble Supreme Court of India

in the cases of Sri Dasoola Rama Rao and Others Vs. State of A.P, Sri K. Siva Reddy Vs. State of A.P. and Sri M. Gangadharam and Others Vs. State of A.P. etc. The delivery of every judicial pronouncements in this regard shows that various inter-judgments have been placed on quota and Rota role and the preponderance of the view taken that the quota or Rota meant only for the purpose of recruitments to the particular category, but not to determine the inter-se seniority of the incumbents belonging to particular category who are appointed to the post included in that category through different methods of recruitments i.e., direct recruitment, promotion and appointment by transfer. The Government of Andhra Pradesh in the light of various judgments of the Hon'ble A.P. Administrative Tribunal dt.01-12-1998 examined the matter further and issued certain clarifications in the Circular Memo No.16/Ser.A/93-39, Dt.21-04-1999.

6. For determining seniority of the employees, the provisions contained in general rule 33 of the Andhra Pradesh State and Subordinate Service Rules, 1996 shall be followed.
7. Their placement is pushed down by placing the names of the DCTOs who are working in Zone-II and Zone -III above while issuing the notice. Even these DCTOs belonging to Zone -II and Zone- III are far juniors to them. The DR ACTOs of 2001 batch of Zone-II and Zone-III who were appointed as DCTOs in the year 2010 got placement in the integrated seniority list of DCTOs of the panel year 2004-05, whereas the DR ACTOs of 1994-95 batch of Zone-I who got promotion as DCTOs in the year 2006 in Zone-I Were shown juniors to the above DR ACTOs of 2001 batch of zone- II in the cadre of DCTOs. This came as a bolt from the blue especially when no reasons are forthcoming in this regard. They further submit that they were promoted as DCTO's later to us that means they were juniors to us as ACTO's and DCTO's also.
8. It is the fundamental and minimum obligation of the authorities not only to prepare seniority list, but even it must be communicated to all the concerned to enable them to know their status in the said seniority list and also to know who are the affected parties to approach the court of Law, or the Appellate authority to enable the authority to rectify their lapses committed by the authorities while preparing the seniority list. But this list is not communicated to all the concerned and therefore appealing before the Government of Andhra Pradesh.
9. Now, the Show Cause Notice issued used a terminology "from the date of arising of vacancies". As per the dictum of Hon'ble Supreme Court, while finalizing inter se seniority for promotions "date of joining" only matters but not the date of arising of vacancy. Further, the Hon'ble Supreme Court categorically held that the seniority should be arrived at, basing on the Service Rules applicable to the particular period. The Court said the Service Rules are paramount and shall not be deviated. In the instant case since the seniority list has been arrived at basing on the date of arising of vacancy which is not mentioned anywhere in the Service Rules, the proposed seniority is illegal, incorrect and need to be re-worked as per the provisions of Rule 33(a).
10. They further submit that date of arising vacancy will play a major role while finalizing the inter- se seniority between direct recruits and rank promotees, but it is integration of seniority, as the DCTO post is 100% promotion post and there is no direct recruitment to the post of DCTO.
11. The seniority cannot be determined based on the availability of vacancies, and it shall be determined based on the date of appointment against the substantive vacancies only, but not with effect from date of availability of vacancies, in all the Zones without taking into account the actual date of promotion against the substantive vacancies is not only contrary to Rule 33(a) & 34 of A P State and Sub ordinate Service Rules and also contrary to the law laid down by the Hon'ble Supreme Court of India in the case of Ashok Kumar Srivastava & Anr Vs State of UP (2014) 14 SCC 720 {CA No. 6967 of

- 2013} and K.V. Subba Rao & others Vs. Govt. Of A.P. (1988) 2 SCC 201 wherein the Honorable Supreme Court of India categorically held that seniority and promotions shall be reckoned from the date of appointment not retrospectively from the date when the vacancy arose and which decision is binding not only on all the courts in India but also the State Governments including the Commissioner of Commercial Taxes.
12. The Hon'ble Supreme Court of India in the case of State of Uttar Pradesh vs. Ashok Kumar Srivatsava, (2014) 14 SCC 720 C.A. No.6967 of 2013 (copy enclosed), after going through the whole gamut of case law on promotions has held:
 13. "The thrust of the matter is how the seniority is to be determined in such circumstances. In Union of India vs. Uppal and others (1996) 2 SCC 168 it has been opined that the seniority of a person is to be determined according to the seniority rule applicable on the date of appointment. It has also been observed that weightage in seniority cannot be given retrospective effect unless it is technically provided in the rule in force at the material time.
 14. In State of Karnataka and others vs. C. Lalitha (2002) 2 SCC 747 it has been observed that it is well settled that seniority should be governed by rules and a person should not be allowed to derive any undue advantage over other employees, for concept of justice demands that one should get what is due to him or her as per law.
 15. In State of Uttaranchal and another vs. Dinesh Kumar Sharma, (2007) 1 SCC 683 it has been clearly stated that seniority has to be decided on the basis of rules in force on the date of appointment and no retrospective promotion or seniority can be granted from a date when an employee has not even been born in the cadre.
 16. Learned senior counsel for the appellant has drawn inspiration from the recent authority in Pawan Prasad Singh and others vs. Reevan Singh and others (2011) 3 SCC 267 where the Court after referring to earlier authorities in the field has culled out certain principles out of which the following being the relevant are reproduced below:
 - "(ii) Inter se seniority in a particular seniority has to be determined as per the service rules. The date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one Officer or the other or between one group of Officers and the other recruited from different sources. Any departure there from in the Statutory rules, Executive instructions or otherwise must be consistent with the requirements of Articles 14 & 16 of the Constitution.
 - (iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime".

In view of the above aforesaid enunciation of law, the irresistible conclusion is that the claim of the first respondent for conferment of retrospective seniority is absolutely untenable and the High Court has fallen into error by granting him the said benefit and accordingly the impugned order deserves to be lanced and I so do."
 17. Further in the case of State of Andhra Pradesh vs. K.V.Subba Rao & others 1988(2) SCC 201, the Apex Court held; "the legal position is well settled that the State is entitled to prescribe the manner of computing inter se seniority and in the absence of such prescription length of service is the basis.
 18. The Honorable Supreme Court of India in State of Bihar Vs. Akhouri Sachindranath 1991 Supp (1) SCC 334 it was held that retrospective seniority cannot be given to an employee from a date when he was not even born in the cadre. So also seniority cannot be given with retrospective effect

- so as to adversely affect others. Seniority amongst members of same grade must.
19. The Hon'ble Supreme Court of India held that In Nirmal Chandra Singh (supra) has been ruled that promotion takes effect from the date of being granted and not from the date of occurrence vacancy or creation of the post. It has also been laid down therein that it is settled in law that date of occurrence of vacancy is not relevant for the determination of seniority.
20. As per the judgment in 24335/1995 which was referred to in the show cause notice categorically mentioned to adopt date of joining in the cadre of DCTO on regular promotion as contemplated in Rule 33(a) of Andhra Pradesh State and Subordinate Service Rules 1995, but not the date on which temporary promotion or time gap promotion which further held as under:
- 1) Final seniority lists in the post of DCTOs be made on the basis of final seniority lists of ACTOs after interspersing them at zonal level.
 - 2) By interspersing the seniority of DCTOs at state level, the final seniority list of CTOs is to be prepared.
 - 3) At each stage of ACTOs and DCTOs, it is Rule 33 (a) of Andhra Pradesh State and Subordinate Service Rules, which will govern the seniority; and
 - 4) While considering the final seniority of CTOs and consequential promotions, it is the seniority based upon Rule 33 (a) referred to above which will govern and not the temporary promotion in the said cadre of DCTOs
21. As seen from the notice, it is understood that the respected authority relied only on the above W.P filed by Y. Sai Mohan Raj and S.T. Prabhavati from Zone IV, and nowhere in the judgement it is mentioned that the Date of Arising of Vacancy to be considered for the finalization of integration of seniority DCTO's among all the Zones. The above judgement erroneously cited by the authorities.
22. Rule 36 clearly mentioned with respect to the inter-se seniority in the case of Amarjit Singh Vs State of Punjab (AIR) 1975 SC (984), the Hon'ble Supreme Court of India held that the date of appointment is the criteria for calculating the seniority. In the case of Padma singh Jiva Vs Union of India (1974) SLR 594 (SC) it was held that it is the date from which the persons are appointed that governs the seniority.
23. Seniority of the promotees or transferees is to be fixed as per quota and from the date of commencement of probation/regular appointment. Seniority of direct recruits is from the date of substantive appointment. Seniority has to be worked out between direct recruits and promotees for each year as said by the Hon'ble Supreme Court of India in the case of Suraj Prakash Gupta & Others Vs State of Jammu & Kashmir (2007) SC 561.
24. Seniority is not a matter of merely determining the length of service of any individual, but one confirming the fixation of his rank vis-à-vis other officers. Any rule applicable to one for determining his rank among the several persons must be equally applicable to the other. A person can never be deemed to be in service from a date anterior to his date of appointment. A. Lakshmi pathi Vs B.R. Ramabhadraiah 1983(3) SLR 190 (AP).
25. Where a redetermination of seniority has done, the competent authority must after affording an opportunity of hearing to the effected parties and pass orders which is also a speaking order. Teja Singh Vs State of Punjab 1983 (1) SLR 730 (P&H).
26. In the instant case, the show cause notice was given applying logic for integration of the seniority basing on date of appointment. To our surprise, the order was passed basing on the date of arising of vacancies which is not governed by any general rules, special rules or adhoc rules and the material was also not supplied to the effected parties for the deviation of the show

cause notice and the authorities draw versed beyond the show cause notice and passed such orders which are nothing but clear violation of principles of natural justice and it has no legal sanctity and cannot stand before the scrutiny of the legality.

27.They further stated that some of the DCTOs of Zone-II & III where they figured in the panel list of:

There are certain factual positions which I may wish to bring to your kind notice.

- Not provided the zone wise & Panel Year wise vacancy position.
- In the Panel Year 2004-05, the DCTOs of II & III Zones are placed from S.L No 1 to 7 in against B.F vacancies of 2003-04 Panel Year. But surprisingly, their probation in the cadre of ACTO was not even declared as they were recruited in the year 2001.

28.They submit that it is quite unjust to place the juniors above the seniors on the ground that there are vacancies available in other zones than in zone-1. Those vacancies arose due to the policy adopted as per G.O.Ms. No.1072 basing on the cadre strength of the zone and the employees of zones 2 & 3 were unduly benefited where as Zone 1& 4 employees were badly affected. Though it was adopted as a onetime measure to issue long awaiting promotions in this Department it left irrevocable loss to zone-1 employees.

29.They further submit that the was struck down by the Hon'ble APAT, Hyderabad, there are huge No. of vacancies arose in zones 2&3 when compared to zones 1&4, the adoption of date of arising vacancy has an adverse affect on us.

30.In this context they respectfully submit that they have been promoted on regular basis only and they request to consider their date of joining in the cadre of DCTO i.e. 20.01.2006. They request the kind Commissioner (CT). A.P. Vijayawada to kindly adopt the date of joining in the cadre of DCTO and do justice by restoring their places in 2004-05 panel year.

In continuation of the personal appearance in this office on 04.04.2017, the following officers submit their written objections as detailed below:

1. Smt A. Kalyani, Deputy Commercial Tax Officer, presently working as Manager (Gazetted) O/o. Deputy Commissioner (CT) Visakhapatnam Division.
 2. Smt S.Srilakshmi, Deputy Commercial Tax Officer, presently working as in the O/o. CTO, Kurupam Market Circle, Visakhapatnam Division.
 3. Smt Ch.Kondamma, Deputy Commercial Tax Officer, presently working in the O/o. CTO-I, Chinawaltair Circle, Visakhapatnam Division.
 4. Smt M.Suneetha Rani, Deputy Commercial Tax Officer, presently working in the O/o. CTO, Kurupam Market Circle, Visakhapatnam Division.
 5. Smt R.Anasuya, Deputy Commercial Tax Officer, presently working in the O/o. CTO, Narasannapeta Circle, Visakhapatnam Division.
1. The date of arising vacancy will play a major role while finalizing the inter-se seniority between direct recruits and rank promotees, but it is integration of seniority, as the DCTO post is 100% promotion post and there is no direct recruitment to the post of DCTO.
 2. Oppose the proposal of placing their juniors above them as they are senior DCTOs in Zone- 1 for the panel years 2003-04 &2004-05. They submit that they belong to 1995 batch as ACTOs and promoted as DCTOs in 2005 & 2006.
 3. It is submitted that the seniority cannot be determined based on the availability of vacancies, and it shall be determined based on the date of appointment against the substantive vacancies only, but not with effect from date of availability of vacancies, in all the Zones without taking into account

the actual date of promotion against the substantive vacancies is not only contrary to Rule 33(a) & 34 of A P State and Sub ordinate Service Rules and also contrary to the law laid down by the Hon'ble Supreme Court of India in the case of Ashok Kumar Srivastava & Anr Vs State of UP (2014) 14 SCC 720 {CA No. 6967 of 2013} and K.V. Subba Rao & others Vs. Govt. Of A.P. (1988) 2 SCC 201 wherein the Honorable Supreme Court of India categorically held that seniority and promotions shall be reckoned from the date of appointment not retrospectively from the date when the vacancy arose and which decision is binding not only on all the courts in India but also the State Governments including the Commissioner of Commercial Taxes.

4. Supreme court of India in the case of state of Uttarpradesh Vs Ashok kumar Srivastava 2013(10) SCALE 505 and in K.V.Subbarao and others vs Government of Andhra Pradesh 1988 AIR SC 887, Unequivocally held that for the purpose of determination OF SENIORITY in the same category of appointment, only "date of joining" is the Criteria.
5. In the case of Y. K. Sai mohan raj, kum. S.T. Prabhavathi is State of AP, WPNO, 24335 of 1999 the dispute was determination seniority in the same cadre, between persons recruited through two different streams. There is absolutely no dispute with the proposition and it is settled by the Apex Court also.
6. We submit that it is quite unjust to place the juniors above the seniors on the ground that there are vacancies available in other zones than in zone-1. Those vacancies arose due to the policy adopted as per G.O.Ms. No.1072 basing on the cadre strength of the zone and the employees of zones 2 & 3 were unduly benefited where as Zone 1& 4 employees were badly affected. Though it was adopted as a onetime measure to issue long awaiting promotions in this Department it left irrevocable loss to zone-1 employees.
7. We further submit that it was struck down by the Hon'ble APAT, Hyderabad, there are huge No. of vacancies arose in zones 2&3 when compared to zones 1&4, the adoption of date of arising vacancy has an adverse affect on them.
8. In the Service Rules seniority is not defined, hence the meaning of seniority as expressed in various dictionaries is detailed below:
 - I) Meaning of Seniority as per dictionary.com: priority or precedence or status obtained as the result of persons length of service as in a profession, trade, company or union
 - II) Meaning of Seniority as per Cambridge dictionary: the advantage that you get by working for a company for long time.
 - III) Meaning of Seniority as per Wikipedia dictionary: Seniority is a concept of a person or a group of people taking precedence over another person or group because the former is either older or has occupied a particular position longer than the later.
 - IV) In view of the legal and factual position they request to adopt the date of joining in the cadre of DCTO duly following the Rule 33(a).

Reply:-

The objections of the individuals is examined and verified with reference to the records and stated as follows:

1. The Hon'ble High Court of A.P., issued following guidelines for preparation of seniority lists.
 - I) Final seniority list in the posts of DCTOs made on the basis of final seniority of ACTOs after interspersing them at Zonal Level:
 - II) By interspersing the seniority of DCTOs State Level, the final seniority list of CTOs has to be prepared.

- III) At each stage of ACTOs and DCTOs, it is Rule 33 (a) of the A.P. State and Sub-Ordinate Services Rules, which will govern the aspect of seniority, and
- IV) While considering the final seniority list of CTOs and consequential promotions, it is the seniority base upon Rule 33 (a) referred to above which will govern and not the temporary promotions in the said cadre of DCTOs.

2. Keeping in view of the guidelines issued by the Hon'ble High Court in W.P.No.24335/1999, dt.09.04.2001 for preparing the seniority lists and opinion of the Addl. Advocate General of High Court of A.P. vide letter dt.06.01.2012, the both the Commissioners of Commercial Taxes of Andhra Pradesh and Telangana opined that the integrated seniority lists of DCTOs of all (6) zones for the panel years 1975-76 to 2004-05 have to be finalized strictly following the Rule 33 (a) of APS&SS Rules, 1996 and no necessity to issue revised show cause notices, since the directions of the Hon'ble High Court to follow Rule 33 (a) of APS & SS Rules, 1996 cannot be disputed. Accordingly, finalized the integrated seniority lists of DCTOs for the panel years 1975-76 to 2004-05. The details are as follows:

Sl.No.	panel years	Principle followed for integration	Remarks
1	1975-76 to 1991-92	Rule 34 of APS & SS Rules	Followed with reference to sub-rule (a) of rule 33 of APS&SS Rules.
2	1992-93 to 1996-97	-do-	-do-
3	1997-98 to 2002-03	-do-	-do-
4	2003-04	-do-	-do-
5	2004-05	-do-	-do-

The finalized seniority lists of DCTOs for the panel years 1975-76 to 2004-05 in (5) spells were published in Gazette No.163, dt.15.06.2015 and no appeal has been received from the individuals figured up to the panel year 2002-03.

3. The no. of vacancies of DCTOs in each panel years is already published in the earlier Gazette No.303, dt.30.05.2006. Now the same vacancies are taken in to consideration for finalization of revision of the seniority. Further if vacancies are available and qualified persons are not available in a particular panel year, then the vacancies are C/F to the next panel year. The B/F vacancies are placed in the top of the panel year. Further only qualified persons are placed in the panel year.

4. The post of DCTO is a Zonal post and the vacancies are arisen in a particular Zone, the same will be filled with the same Zonal persons. The same shall not be compared with vacancies arises in other zones.

5. The judgments mentioned in the objections are not related to the present integrated seniority list of DCTOs and the integrated seniority list of DCTOs prepared as per existing Rule 33 (a) and 34 of the APS&SS Rules 1996.

6. The Rule 34 & 33 (a) says that

Rule 34 – Preparation of integrated or common seniority list of persons belonging to different units of appointment : where as integrated or common seniority list of a particular class, or category or grade in any service belonging to different units of appointment has to be prepared for the purpose of promotion or appointment by transfer, to a class or category having different units of appointment or for any other purpose, such an integrated or common seniority list shall be prepared with reference to the provision of sub – rule (a) of Rule 33, provided that the seniority list of the person inter-se belonging to the same units shall not be disturbed.

Rule 33 Seniority (a) – The seniority list of a person in a service, class, category or grade, shall unless he had been reduced to a lower rank, as a punishment, be determined by the date of his first appointment to such service, class, category or grade.

7. Hence, the objections of the individuals are over ruled and hereby confirmed the integrated seniority list of DCTOs for the panel year 2004-05 as proposed in the reference 7th cited.

8. The integrated seniority list of DCTOs of all Zones for the panel year 2004-05 (appended as Annexure) is hereby finalized.

9. It is also informed that the placements made in the panel year of the employees are only for the purpose of seniority. It does not confer any right to notional promotion or monetary benefits etc with retrospective.

10. The State-wide integrated combined seniority list of DCTOs will be subject to outcome of SLPs/WPs/OAs/CAS appeals pending if any, before the Supreme Court of India/High Court /APAT/ Government.

11. The orders are available on the official portal of the C.T. Department of Andhra Pradesh and can be assessed at the www.apct.gov.in.

ANNEXURE

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2004-05							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
1	III	2004-05	BF 03-04	B.Sreelakshmi	15-03-1947	31-12-2004	Retired
2	II	2004-05	BF 03-04	Syed Sarkar Jani	16-01-1951	20-06-2005	Retired
3	II	2004-05	BF 03-04	N.Jagan Mohan Rao	22-04-1951	20-06-2005	Retired
4	II	2004-05	BF 03-04	K.Suvarna Rani (SC)	03-10-1973	03-03-2009	
5	II	2004-05	BF 03-04	K.Sridhar	20-06-1972	03-03-2009	
6	II	2004-05	BF 03-04	E.Rama Devi	15-07-1972	03-03-2009	
7	II	2004-05	BF 03-04	V.Srinivas	08-08-1972	03-03-2009	
8	IV	2004-05	10-09-2004	N.V.Krishna Reddy	01-07-1965	29-12-2005	
9	IV	2004-05	10-09-2004	P.Y.Chandra Sekhar (SC)	01-06-1953	20-06-2005	Retired
10	IV	2004-05	10-09-2004	C.Ademma (SC)	15-07-1951	20-06-2005	Retired
11	IV	2004-05	10-09-2004	P.Madhu Sudhana Prasad	27-09-1951	20-06-2005	Retired
12	VI	2004-05	10-09-2004	K.Venugopal	21-09-1966	09-06-2006	
13	VI	2004-05	10-09-2004	G.Rajyalakshmi	15-06-1962	09-06-2006	
14	VI	2004-05	10-09-2004	K.Venkateshwarlu (SC)	04-04-1969	09-06-2006	
15	VI	2004-05	10-09-2004	N.Aruna Reddy	20-01-1964	09-06-2006	
16	VI	2004-05	10-09-2004	D.Sailaja	12-02-1964	09-06-2006	
17	VI	2004-05	10-09-2004	S.Ravichandra	15-12-1969	14-08-2006	
18	VI	2004-05	10-09-2004	N.Sunitha	01-07-1959	09-06-2006	
19	VI	2004-05	10-09-2004	G.J.S.Praveena	08-05-1969	09-06-2006	
20	VI	2004-05	10-09-2004	K.Navanetha (SC)	25-09-1966	09-06-2006	
21	VI	2004-05	10-09-2004	G.Radha Gopal Naidu	02-04-1961	09-06-2006	
22	VI	2004-05	10-09-2004	G.Narasimhulu (SC)	02-02-1952	06-12-2005	Retired
23	VI	2004-05	30-09-2004	S.Kishan (SC)	12-02-1950	14-08-2006	Retired
24	III	2004-05	31-10-2004	J.Sudha Madhuri (ST)	10-05-1975	08-11-2007	
25	VI	2004-05	30-11-2004	M.Surender (SC)	10-06-1947	30-11-2004	Retired
26	I	2004-05	31-12-2004	A.Kalyani	01-05-1968	20-01-2006	
27	II	2004-05	31-12-2004	B.Mallikarjuna Rao	12-06-1969	03-03-2009	
28	III	2004-05	31-12-2004	K.Gopi Chandu	16-06-1971	08-11-2007	
29	V	2004-05	02-02-2005	Md.Ankush	21-11-1948	23-04-2005	Retired
30	VI	2004-05	02-02-2005	G.Kantaiah	20-07-1950	06-12-2005	Retired
31	V	2004-05	02-02-2005	Md.Iqbal Ali	28-03-1951	23-04-2005	Retired
32	VI	2004-05	02-02-2005	E.Krishna Rao	23-01-1952	06-12-2005	Retired
33	VI	2004-05	02-02-2005	K.Babu Rao	10-11-1950	14-08-2006	Retired
34	VI	2004-05	02-02-2005	Mohd.Altafar Rehman	17-05-1950	14-08-2006	Retired
35	VI	2004-05	02-02-2005	Yech.Vidya Sagar	27-02-1951	06-12-2005	Retired
36	VI	2004-05	02-02-2005	P.Sridhara Rao	27-01-1951	06-12-2005	Retired
37	VI	2004-05	02-02-2005	Habeeb Mosin Iqbal	05-10-1947	02-02-2005	Retired
38	VI	2004-05	02-02-2005	Shak Mohinuddin	01-05-1948	06-12-2005	Retired
39	V	2004-05	02-02-2005	K.Thulasidas	03-04-1953	28-03-2006	Retired
40	V	2004-05	02-02-2005	Ch.Lakshmana Murthy(ST)	15-07-1956	23-04-2005	Retired

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2004-05							
Sl.N o.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
41	V	2004-05	02-02-2005	K.G.Surya Rao (SC)	19-04-1949	23-04-2005	Retired
42	IV	2004-05	02-02-2005	S.V.Satyanarayana Murhty	01-07-1958	06-02-2006	
43	IV	2004-05	02-02-2005	S.Ramakrishnaiah (SC)	05-01-1949	20-06-2005	Retired
44	IV	2004-05	02-02-2005	K.Maheswar (ST)	01-07-1955	29-12-2005	Retired
45	IV	2004-05	02-02-2005	R.Thippa Naik (ST)	01-07-1953	20-06-2005	Retired
46	IV	2004-05	02-02-2005	M.Narayana Naik (ST)	01-12-1960	20-06-2005	
47	IV	2004-05	02-02-2005	S.Sankaraiah	01-07-1949	20-06-2005	Retired
48	IV	2004-05	02-02-2005	B.S.L.N.Babu	22-05-1947	02-02-2005	Retired
49	IV	2004-05	02-02-2005	K.Nagaiah	05-05-1947	02-02-2005	Retired
50	IV	2004-05	02-02-2005	G.Rama Rao	01-07-1951	20-06-2005	Retired
51	IV	2004-05	02-02-2005	S.Nageswara Rao (SC)	01-06-1954	06-02-2006	Retired
52	IV	2004-05	02-02-2005	V.Narasaramaiah	15-05-1947	02-02-2005	Retired
53	IV	2004-05	02-02-2005	M.Ravindra Sarma	01-05-1950	06-02-2006	Retired
54	I	2004-05	02-02-2005	S.Srilakshmi	04-04-1965	20-01-2006	
55	II	2004-05	02-02-2005	T.Subba Rao	08-05-1969	03-03-2009	
56	II	2004-05	02-02-2005	V.Jyothi	15-05-1969	03-03-2009	
57	I	2004-05	02-02-2005	Ch.Kondamma	01-06-1969	20-01-2006	
58	I	2004-05	02-02-2005	R.Anasuya	04-07-1969	20-01-2006	
59	II	2004-05	02-02-2005	A.Madhavi	21-08-1976	03-03-2009	
60	II	2004-05	02-02-2005	T.V.Nageswara Rao	05-05-1972	03-03-2009	
61	II	2004-05	02-02-2005	K.P.Girija Shankari	01-08-1961	03-03-2009	
62	II	2004-05	02-02-2005	K.Vijayalakshmi	15-07-1969	12-08-2010	
63	II	2004-05	02-02-2005	J.Srinivasa Rao	08-03-1975	12-08-2010	
64	II	2004-05	02-02-2005	B.Vijaya Bharathi	15-08-1967	12-08-2010	
65	II	2004-05	02-02-2005	A.Sridhar	07-10-1968	12-08-2010	
66	III	2004-05	02-02-2005	M.Venkateswarlu	01-07-1977	08-11-2007	
67	III	2004-05	02-02-2005	R.Sri Devi	04-06-1974	08-11-2007	
68	III	2004-05	02-02-2005	B.Ravi Kumar	31-07-1974	08-11-2007	
69	III	2004-05	02-02-2005	A.Santha Ram	04-08-1963	08-11-2007	
70	III	2004-05	02-02-2005	A.V.Ramana Kumar	15-05-1968	08-11-2007	
71	III	2004-05	02-02-2005	A.Raghunadha Babu (SC)	22-07-1962	08-11-2007	
72	VI	2004-05	31-03-2005	S.Mohan Rao	01-01-1950	06-12-2005	Retired
73	II	2004-05	31-03-2005	Y.G.V.Ramana Kumari	02-06-1967	12-08-2010	
74	II	2004-05	31-03-2005	V.Yesupadam	19-05-1969	12-08-2010	
75	II	2004-05	31-03-2005	V.Krishna Rao	02-10-1960	12-08-2010	
76	V	2004-05	26-05-2005	S.Shanker Rao	10-07-1950	23-04-2005	Retired
77	V	2004-05	30-06-2005	S.Prakash Rao	08-07-1950	23-04-2005	Retired
78	II	2004-05	30-06-2005	G.V.Ratnakar Rao	10-08-1953	20-06-2005	Retired
79	VI	2004-05	30-06-2005	M.Venkataiah (ST)	12-08-1960	06-12-2005	
80	IV	2004-05	30-06-2005	B N Savaranna (SC)	01-06-1948	06-02-2006	Retired
81	IV	2004-05	30-06-2005	M.Harinath Naik (ST)	02-08-1963	06-02-2006	
82	IV	2004-05	24-08-2005	E.Munirathnam (SC)	01-07-1949	06-02-2006	Retired

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2004-05							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
83	VI	2004-05	24-08-2005	B.Ananda Rao	06-06-1950	06-12-2005	Retired
84	V	2004-05	24-08-2005	E.Kondal Rao	03-01-1951	23-04-2005	Retired
85	V	2004-05	24-08-2005	T.Bhaskar	16-03-1948	23-04-2005	Retired
86	V	2004-05	24-08-2005	Mohd.Ghouse	25-08-1947	23-04-2005	Retired
87	V	2004-05	24-08-2005	Khaja Ahmed Hussain	26-01-1951	23-04-2005	Retired
88	V	2004-05	24-08-2005	T.Narsihma Swamy	21-05-1950	24-02-2006	Retired
89	IV	2004-05	24-08-2005	B.Basheer Ahmed	01-06-1951	06-02-2006	Retired
90	IV	2004-05	24-08-2005	M.Mariamamma (SC)	01-07-1949	06-02-2006	Retired
91	IV	2004-05	24-08-2005	N.Ch.Narasinga Rao	10-05-1951	06-02-2006	Retired
92	VI	2004-05	24-08-2005	S.Durgaiah	08-02-1952	06-12-2005	Retired
93	VI	2004-05	24-08-2005	M.Sadanand (SC)	16-03-1950	06-12-2005	Retired
94	VI	2004-05	24-08-2005	Mohd. Fasiuddin	30-07-1950	06-12-2005	Retired
95	VI	2004-05	24-08-2005	G.Rama Krishna Reddy	07-07-1948	06-12-2005	Retired
96	V	2004-05	24-08-2005	D.Raja Rathnam (SC)	02-03-1953	24-02-2006	Retired
97	V	2004-05	24-08-2005	T.Prabhakar	16-05-1950	24-02-2006	Retired
98	V	2004-05	24-08-2005	Baliram (ST)	06-02-1955	24-02-2006	Retired
99	V	2004-05	24-08-2005	R.Shyamsundhar Rao	18-11-1950	24-02-2006	Retired
100	IV	2004-05	24-08-2005	K.Sivaramaiah (SC)	10-06-1961	06-02-2006	
101	IV	2004-05	24-08-2005	M.Pratap Reddy	16-04-1951	06-02-2006	Retired
102	IV	2004-05	24-08-2005	S.Selvaraj	16-03-1949	06-02-2006	
103	VI	2004-05	24-08-2005	C.Shakunthala	04-01-1965	06-12-2005	
104	VI	2004-05	24-08-2005	G.Srinivas (SC)	15-03-1967	06-12-2005	
105	VI	2004-05	24-08-2005	P.Subhash	04-12-1952	06-12-2005	
106	VI	2004-05	24-08-2005	P.Radha Krishna	01-04-1957	06-12-2005	
107	VI	2004-05	24-08-2005	B.Kishan lal	01-12-1949	06-12-2005	Retired
108	VI	2004-05	24-08-2005	K.V.Vital	12-06-1950	06-12-2005	Retired
109	VI	2004-05	24-08-2005	G.Srinivasulu	08-03-1948	06-12-2005	Retired
110	VI	2004-05	24-08-2005	N.Devid	08-05-1952	06-12-2005	Retired
111	VI	2004-05	24-08-2005	A.V.Srinivasa Rao	02-03-1952	06-12-2005	Retired
112	VI	2004-05	24-08-2005	B.Augustine (Amarender) (SC)	10-03-1956	06-12-2005	Retired
113	VI	2004-05	24-08-2005	P.Sivaramreddy	15-06-1964	06-12-2005	
114	VI	2004-05	24-08-2005	Bhupender Lal	01-08-1955	06-12-2005	
115	VI	2004-05	24-08-2005	R.F.R. Kumar (SC)	09-06-1960	06-12-2005	
116	VI	2004-05	24-08-2005	Y.Balaiah	03-01-1950	06-12-2005	Retired
117	VI	2004-05	24-08-2005	S.Prakash (SC)	02-10-1949	06-12-2005	Retired
118	VI	2004-05	24-08-2005	B.Upender Reddy	31-10-1965	06-12-2005	
119	I	2004-05	24-08-2005	M.Sunitha Rani	04-06-1967	20-01-2006	
120	I	2004-05	24-08-2005	Ch.Achaiamma (SC-C)	17-07-1951	23-04-2005	Retired
121	I	2004-05	24-08-2005	G.Seethanna Dora (ST)	06-12-1951	23-04-2005	Retired
122	I	2004-05	24-08-2005	N.S.N. Murthy	16-01-1955	23-04-2005	Retired
123	I	2004-05	24-08-2005	SUM Janadev (ST)	01-07-1959	23-04-2005	

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2004-05							
Sl.N o.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
124	I	2004-05	24-08-2005	R.Appala Naidu	01-07-1948	23-04-2005	Retired
125	I	2004-05	24-08-2005	N. Madhusudana Rao (CL)	5/20/1949	23-04-2005	Retired
126	IV	2004-05	24-08-2005	N. Chenna Reddy	06-01-1971	05-01-2009	
127	IV	2004-05	24-08-2005	M.Vasudeva Raju (SC)	18-06-1970	05-01-2009	
128	IV	2004-05	24-08-2005	I. Gayatri	01-06-1972	06-01-2009	
129	IV	2004-05	24-08-2005	A.S.K. Prasad	26-06-1971	05-01-2009	
130	IV	2004-05	24-08-2005	K. Karim Basha	08-06-1971	06-01-2009	
131	IV	2004-05	24-08-2005	K. Noorjahan	01-06-1974	05-01-2009	
132	IV	2004-05	24-08-2005	D. Srinivasulu	06-01-1973	05-01-2009	
133	IV	2004-05	24-08-2005	P. Babu Naik (ST)	02-05-1975	05-01-2009	
134	IV	2004-05	24-08-2005	T.N. Archana	01-08-1974	05-01-2009	
135	IV	2004-05	24-08-2005	C. Ramakrishna	01-06-1971	05-01-2009	
136	IV	2004-05	24-08-2005	Y.Krishna veni (SC)	15-07-1971	06-02-2006	
137	IV	2004-05	24-08-2005	K.Satyanandam (SC)	01-07-1950	06-02-2006	
138	IV	2004-05	24-08-2005	T.Subba Rayudu (STO	01-06-1963	06-02-2006	

J. SYAMALA RAO,
Commissioner (CT).

FINALIZED THE INTEGRATED SENIORITY LIST OF DCTOs FOR THE PANEL YEAR 2003 - 2004.

- Ref:- 1. CCT's Ref.DZ(2) / 195 / 2014, dated : 27-03-2014.
2. TS CCT's Ref.DZ(2) / 79 / 2014, dated : 01-05-2015.
3. A.P. Extraordinary Gazette No. 163, dated : 15-06-2015.
4. Govt. Memo No.20951 / CT.I(1) / 2015, dated : 18-11-2015.
5. CCT's Ref.DXZ(3) / 947 / 2015, dated : 16-02-2016.
6. Govt. Memo No.20951 / CT.I(1) / 2015, dated : 25-04-2016.
7. CCTs Ref.No.DXZ(3)397 / 2016, dated : 08-12-2016.

CCT's Ref.No.DXZ(3) / 397 / 2015-1,- In the reference 1st cited a show cause notice was issued, calling objections on the proposed integrated seniority list of DCTOs for the panel year 2003-2004, which was prepared by taking each one from each zone method. The same was not finalized before bifurcation of the state.

In the reference 2nd cited, the Commissioner (CT), Telangana opined that while preparing the proposed integrated seniority list of DCTOs, the guidelines for preparation of seniority lists issued by the Hon'ble High court of A.P. in W.P. No.24335/1999, dated 09.04.2001 was not followed and also which is against the Rule 33 (a) of APS & SS Rules, 1996.

After, detailed discussions, both the Commissioners of Andhra Pradesh and Telangana States finalized the integrated seniority list of DCTOs for the panel years 1975-76 to 2004-05 in different spells on 03.06.2015, strictly following the directions of the Hon'ble High court of A.P. in W.P. No.24335/1999, dt.09.04.2001 and Rule 33 (a) of APS & SS Rules, 1996. The same was published vide reference 3rd cited.

Against the integrated seniority list of DCTOs for the panel year 2003-04, the DCTOs of Zone-I namely, (1) Y.V.Sreeramulu (2) S.Prakash (3) Anirudh (4) K.Nagaraju (5) G.Ranimohan filed appeal petition before the Government questioning the integrate seniority lists finalized by the Commissioner of Commercial Taxes on the ground that they were not given an opportunity to submit their objections before finalizing the lists. In the reference 4th cited the Government have forwarded the appeal petition and requested to furnish the detailed report along with specific remarks and connected records relating to the Integrated seniority lists published in Gazette No.163, dt.15.06.2015 for further examination of the matter.

As per instructions of the Government vide reference 6th cited, and as per consent given by the Commissioner of Commercial Taxes, Telangana, it is decided to give an opportunity to affected persons, who were included in the panel year 2003-04 at zonal level and as well in integrated seniority list of DCTOs for the panel year 2003-04.

In the reference 7th cited the State-wide integrated combined seniority list of DCTOs for the panel year 2003-04 was communicated to the persons of Zone-I covered and requested to file their written statement of objections, if any, within (15) days from the date of issue of this Notice (or) publication of this Notice in the departmental website, failing which, it will be construed that they have no objections to the proposed combined seniority and that orders will be passed without further notice or time.

In response to the above notice the following individuals submitted their objections and the same are discussed and answered hereunder.

1. Smt G.Rani Mohan, I/c, CTO, Srikakulam Circle.
 2. Sri Y.Aniruddu, I/c, CTO, Rajam Circle.
 3. Sri K.Naga Raju, I/c, CTO, (presently under suspension).
 4. Sri S.Prakash, I/c, CTO, ICP, Purushothapuram.
1. The seniority lists said to have been finalized and signed by the Commissioners (CT) of both the States, which were published in the Gazette No.163, dt.15.06.2015.
 - Their placements as Deputy Commercial Tax Officers in the panel years 2003-04 & 2004-05 were altered in the said Gazette dt.15.06.2015, from those originally proposed in the show cause notice without affording opportunity to put forth our contentions in person, to us. This is against the principles of natural justice. The placements of us in the show cause notice and Final orders are as follows:

Panel Year	Name of the individual	Sl. No. as per show cause notice	Si. No. as per order (Gazette)
2003-04	Y.V. Sri Ramulu	21	79
	S. Prakash	29	80
	Y. Aniruddu	34	81
	K. Naga Raju	39	111
	G. Rani Mohan	47	112

2. As seen from the contents Gazette, for finalization of seniority, Rules 33(a), 34 and 36 of the A.P. State and Subordinate Service Rules. Nowhere in the said rules, there is anything to suggest that the seniority lists have to be finalized as per date of arising vacancy. On the contrary, for calculation of seniority, the date of appointment i.e., date of joining in respect of directly recruited persons and date of commencement of probation in respect of promotees. Hence, the seniority lists published in the Gazette are violative of Rule 33, 34 and 36 of A.P. State and Subordinate Service Rules.
3. It is submitted that the seniority cannot be determined based on the availability of vacancies, and it shall be determined based on the date of appointment against the substantive vacancies only, but not with effect from date of availability of vacancies, in all the Zones without taking into account the actual date of promotion against the substantive vacancies is not only contrary to Rule 33(a) & 34 of A P State and Sub ordinate Service Rules etc. and also contrary to the law laid down by the Hon'ble Supreme Court of India in the case of Ashok Kumar Srivastava & Anr Vs State of UP (2014) 14 SCC 720 {CA No. 6967 of 2013} and K.V. Subba Rao & others Vs. Govt. Of A.P. (1988) 2 SCC 201 wherein the Honorable Supreme Court of India categorically held that seniority and promotions shall be reckoned from the date of appointment not retrospectively from the date when the vacancy arose and which decision is binding not only on all the courts in India but also the State Governments including the Commissioner of Commercial Taxes.
4. The Hon'ble Supreme Court of India in the case of State of Uttar Pradesh vs. Ashok Kumar Srivatsava, (2014) 14 SCC 720 C.A. No.6967 of 2013 (copy

enclosed), after going through the whole gamut of case law on promotions has held:

“The thrust of the matter is how the seniority is to be determined in such circumstances. In *Union of India vs. Uppal and others* (1996) 2 SCC 168 it has been opined that the seniority of a person is to be determined according to the seniority rule applicable on the date of appointment. It has also been observed that weightage in seniority cannot be given retrospective effect unless it is technically provided in the rule in force at the material time.

In *State of Karnataka and others vs. C. Lalitha* (2002) 2 SCC 747 it has been observed that it is well settled that seniority should be governed by rules and a person should not be allowed to derive any undue advantage over other employees, for concept of justice demands that one should get what is due to him or her as per law.

In *State of Uttaranchal and another vs. Dinesh Kumar Sharma*, (2007) 1 SCC 683 it has been clearly stated that seniority has to be decided on the basis of rules in force on the date of appointment and no retrospective promotion or seniority can be granted from a date when an employee has not even been born in the cadre.

In *Nirmal Chandra Singh* (supra) has been ruled that promotion takes effect from the date of being granted and not from the date of occurrence vacancy or creation of the post. It has also been laid down therein that it is settled in law that date of occurrence of vacancy is not relevant for the determination of seniority.

Learned senior counsel for the appellant has drawn inspiration from the recent authority in *Pawan Prasad Singh and others vs. Reevan Singh and others* (2011) 3 SCC 267 where the Court after referring to earlier authorities in the field has culled out certain principles out of which the following being the relevant are reproduced below:

“(ii) Inter se seniority in a particular seniority has to be determined as per the service rules. The date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one Officer or the other or between one group of Officers and the other recruited from different sources. Any departure there from in the Statutory rules, Executive instructions or otherwise must be consistent with the requirements of Articles 14 & 16 of the Constitution.

(iv) The seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime”.

5. Further in the case of *State of Andhra Pradesh vs. K.V.Subba Rao & others* 1988(2) SCC 201, the Apex Court held; “the legal position is well settled that the State is entitled to prescribe the manner of computing inter se seniority and in the absence of such prescription length of service is the basis.
6. Not disclosing the number of vacancies of DCTOs arose in each zone.
7. Now, the Show Cause Notice issued used a terminology “from the date of arising of vacancies”. As per the dictum of Hon’ble Supreme Court, while finalizing

inter se seniority for promotions "date of joining" only matters but not the date of arising of vacancy. Further, the Hon'ble Supreme Court categorically held that the seniority should be arrived at, basing on the Service Rules applicable to the particular period. The Court said the Service Rules are paramount and shall not be deviated. In the instant case since the seniority list has been arrived at basing on the date of arising of vacancy which is not mentioned anywhere in the Service Rules, the proposed seniority is illegal, incorrect and need to be re-worked as per the provisions of Rule 33(a). It is emphasized at the cost of repetition that there is nothing in the Rules to interpret "date of appointment to the post", as "date of arising of vacancy."

In continuation of the personal appearance in this office on 04.04.2017, the following officers submit their written objections as detailed below:

1. Smt G.Rani Mohan, I/c, CTO, Srikakulam Circle.
 2. Sri S.Prakash, I/c, CTO, ICP, Purushothapuram.
1. The date of arising vacancy will play a major role while finalizing the inter- se seniority between direct recruits and rank promotees, but it is integration of seniority, as the DCTO post is 100% promotion post and there is no direct recruitment to the post of DCTO.
 2. Oppose the proposal of placing their juniors above them as they are senior DCTOs in Zone- 1 for the panel years 2003-04 & 2004-05. They submit that they belong to 1995 batch as ACTOs and promoted as DCTOs in 2005 & 2006.
 3. It is submitted that the seniority cannot be determined based on the availability of vacancies, and it shall be determined based on the date of appointment against the substantive vacancies only, but not with effect from date of availability of vacancies, in all the Zones without taking into account the actual date of promotion against the substantive vacancies is not only contrary to Rule 33(a) & 34 of A P State and Sub ordinate Service Rules and also contrary to the law laid down by the Hon'ble Supreme Court of India in the case of Ashok Kumar Srivastava & Anr Vs State of UP (2014) 14 SCC 720 {CA No. 6967 of 2013} and K.V. Subba Rao & others Vs. Govt. Of A.P. (1988) 2 SCC 201 wherein the Honorable Supreme Court of India categorically held that seniority and promotions shall be reckoned from the date of appointment not retrospectively from the date when the vacancy arose and which decision is binding not only on all the courts in India but also the State Governments including the Commissioner of Commercial Taxes.
 4. Supreme court of India in the case of state of Uttarpradesh Vs Ashok kumar Srivastava 2013(10) SCALE 505 and in K.V.Subbarao and others vs Government of Andhra Pradesh 1988 AIR SC 887, Unequivocally held that for the purpose of determination OF SENIORITY in the same category of appointment, only "date of joining" is the Criteria.
 5. In the case of Y. K. Sai mohan raj, kum. S.P. Prabhavathi is State of AP, WPNO, 24335 of 1999 the dispute was determination seniority in the same cadre, between persons recruited through two different streams. There is absolutely no dispute with the proposition and it is settled by the Apex Court also.
 6. We submit that it is quite unjust to place the juniors above the seniors on the ground that there are vacancies available in other zones than in zone-1. Those vacancies arose due to the policy adopted as per G.O.Ms. No.1072 basing on the cadre strength of the zone and the employees of zones 2 & 3 were unduly benefited where as Zone 1& 4 employees were badly affected. Though it was adopted as a onetime measure to issue long awaiting promotions in this Department it left irrevocable loss to zone-1 employees.
 7. We further submit that it was struck down by the Hon'ble APAT, Hyderabad, there are huge No. of vacancies arose in zones 2&3 when compared to zones 1&4, the adoption of date of arising vacancy has an adverse affect on them.

8. In the Service Rules seniority is not defined, hence the meaning of seniority as expressed in various dictionaries is detailed below:
- Meaning of Seniority as per dictionary.com: priority or precedence or status obtained as the result of persons length of service as in a profession, trade, company or union
 - Meaning of Seniority as per Cambridge dictionary: the advantage that you get by working for a company for long time.
 - Meaning of Seniority as per Wikipedia dictionary: Seniority is a concept of a person or a group of people taking precedence over another person or group because the former is either older or has occupied a particular position longer than the later.
9. In view of the legal and factual position they request to adopt the date of joining in the cadre of DCTO duly following the Rule 33(a).

Reply:-

The objections of the individuals is examined and verified with reference to the records and stated as follows:

1. The Hon'ble High Court of A.P., issued following guidelines for preparation of seniority lists.

- Final seniority list in the posts of DCTOs made on the basis of final seniority of ACTOs after interspersing them at Zonal Level:
- By interspersing the seniority of DCTOs State Level, the final seniority list of CTOs has to be prepared.
- At each stage of ACTOs and DCTOs, it is Rule 33 (a) of the A.P. State and Sub-Ordinate Services Rules, which will govern the aspect of seniority, and
- While considering the final seniority list of CTOs and consequential promotions, it is the seniority base upon Rule 33 (a) referred to above which will govern and not the temporary promotions in the said cadre of DCTOs.

2. Keeping in view of the guidelines issued by the Hon'ble High Court in W.P.No.24335/1999, dt.09.04.2001 for preparing the seniority lists and opinion of the Addl. Advocate General of High Court of A.P. vide letter dt.06.01.2012, the both the Commissioners of Commercial Taxes of Andhra Pradesh and Telangana opined that the integrated seniority lists of DCTOs of all (6) zones for the panel years 1975-76 to 2004-05 have to be finalized strictly following the Rule 33 (a) of APS&SS Rules, 1996 and no necessity to issue revised show cause notices, since the directions of the Hon'ble High Court to follow Rule 33 (a) of APS & SS Rules, 1996 cannot be disputed. Accordingly, finalized the integrated seniority lists of DCTOs for the panel years 1975-76 to 2004-05. The details are as follows:

Sl.No.	panel years	Principle followed for integration	Remarks
1	1975-76 to 1991-92	Rule 34 of APS & SS Rules	Followed with reference to sub-rule (a) of rule 33 of APS&SS Rules.
2	1992-93 to 1996-97	-do-	-do-
3	1997-98 to 2002-03	-do-	-do-
4	2003-04	-do-	-do-
5	2004-05	-do-	-do-

The finalized seniority lists of DCTOs for the panel years 1975-76 to 2004-05 in (5) spells were published in Gazette No.163, dt.15.06.2015 and no appeal has been received from the individuals figured up to the panel year 2002-03.

3. The no. of vacancies of DCTOs in each panel years in each is already published in the earlier Gazette No.303, dt.30.05.2006. Now the same vacancies are taken in to consideration for finalization of revision of the seniority.

4. The post of DCTO is a Zonal post and the vacancies arised in a particular Zone, the same will be filled with the same Zonal persons. The same shall not be compared with vacancies arises in other zones.

5. The judgments mentioned in the objections are not related to the present integrated seniority list of DCTOs and the integrated seniority list of DCTOs prepared as per existing Rule 33 (a) and 34 of the APS&SS Rules 1996.

6. The Rule 34 & 33 (a) says that

Rule 34 – Preparation of integrated or common seniority list of persons belonging to different units of appointment : where as integrated or common seniority list of a particular class, or category or grade in any service belonging to different units of appointment has to be prepared for the purpose of promotion or appointment by transfer, to a class or category having different units of appointment or for any other purpose, such an integrated or common seniority list shall be prepared with reference to the provision of sub – rule (a) of Rule 33, provided that the seniority list of the person inter-se belonging to the same units shall not be disturbed.

Rule 33 Seniority (a) – The seniority list of a person in a service, class, category or grade, shall unless he had been reduced to a lower rank, as a punishment, be determined by the date of his first appointment to such service, class, category or grade.

7. Hence, the objections of the individuals are over ruled and hereby confirmed the integrated seniority list of DCTOs for the panel year 2003-04 as proposed in the reference 7th cited.

8. The integrated seniority list of DCTOs of all Zones for the panel year 2003-04 (appended as Annexure) is hereby finalized.

9. It is also informed that the placements made in the panel year of the employees are only for the purpose of seniority. It does not confer any right to notional promotion or monetary benefits etc with retrospective.

10. The State-wide integrated combined seniority list of DCTOs will be subject to outcome of SLPs/WPs/OAs/CAS appeals pending if any, before the Supreme Court of India/High Court /APAT/ Government.

11. The orders are available on the official portal of the C.T. Department of Andhra Pradesh and can be assessed at the www.apct.gov.in.

ANNEXURE

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2003-04							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
1	II	2003-04	30-09-2003	Kumari Jamuna Rani	31-12-1964	13-03-2006	
2	II	2003-04	30-09-2003	M.Vidyadhara Saradhakumari	15-05-1963	13-03-2006	
3	II	2003-04	30-09-2003	Ch.Usha Rajyalakshmi	01-07-1965	13-03-2006	
4	II	2003-04	30-09-2003	Ch.Rama Krishna Rao	25-12-1944	13-09-2000	Retired
5	VI	2003-04	31-10-2003	K.Balaratnam	02-03-1948	01-05-1999	Retired
6	VI	2003-04	31-10-2003	B.Sukanya Kumari	11-02-1954	06-12-2005	Retired
7	III	2003-04	09-12-2003	T.Yella chandrudu	15-06-1963	23-04-2005	
8	III	2003-04	31-12-2003	M.S.Syamprasad	01-07-1946	05-05-2000	Retired
9	VI	2003-04	31-12-2003	G.Surya Prakasa Rao	20-05-1959	06-12-2005	Retired
10	V	2003-04	31-12-2003	E.Peddulaiah	20-04-1953	23-04-2005	Retired
11	VI	2003-04	31-12-2003	K.Udaya lakshmi	02-06-1950	06-12-2005	Retired
12	II	2003-04	22-01-2004	M.Pamula Reddy	01-07-1944	13-09-2000	Retired
13	V	2003-04	31-01-2004	G.Venkanna	14-10-1951	23-04-2005	Retired
14	II	2003-04	29-02-2004	K.Bala Krishna Rao	12-10-1948	17-09-1997	Retired
15	VI	2003-04	29-02-2004	K.Pradeep Kumar	13-11-1956	06-12-2005	Retired
16	VI	2003-04	29-02-2004	S.Satyanarayana	10-01-1947	29-02-2004	Retired
17	II	2003-04	31-03-2004	P.Satyanarayana Rao	29-12-1947	30-09-2003	Retired
18	V	2003-04	31-03-2004	M.Venkateswara Rao	15-03-1964	28-06-2005	
19	IV	2003-04	31-03-2004	K.Varalakshmi	20-06-1966	20-06-2005	
20	II	2003-04	30-04-2004	S.Santhosham (SC)	09-09-1945	30-09-2003	Retired
21	II	2003-04	30-04-2004	M.Janardhana Rao (SC)	01-01-1947	22-01-2004	Retired
22	VI	2003-04	30-04-2004	A.Saraswathi (SC)	13-06-1950	06-12-2005	Retired
23	VI	2003-04	30-04-2004	A.Kishan Rao	07-08-1948	06-12-2005	Retired
24	I	2003-04	30-04-2004	I.V.Prabhakara Rao (SC)	03-08-1951	23-04-2005	Retired
25	V	2003-04	30-04-2004	Damodar	10-02-1961	28-06-2005	
26	II	2003-04	31-05-2004	T.D.Kanakaraju (SC)	10-03-1950	13-03-2006	Retired
27	VI	2003-04	31-05-2004	M.Hanumatha Reddy	02-10-1949	06-12-2005	Retired
28	V	2003-04	31-05-2004	K.Madhukar Reddy	15-03-1964	28-06-2005	
29	VI	2003-04	30-06-2004	M.Raghunandan	28-07-1951	06-12-2005	Retired
30	VI	2003-04	30-06-2004	M.Ramachandar	05-12-1950	06-12-2005	Retired
31	II	2003-04	30-06-2004	Ch.Venkata Rao (SC)	02-12-1951	13-03-2006	Retired
32	II	2003-04	30-06-2004	M.L.Subhadra (ST)	14-12-1953	13-03-2006	Retired
33	III	2003-04	30-06-2004	Ch. Subrahmanyam	05-07-1955	16-09-2000	Expired
34	III	2003-04	30-06-2004	S.Satish Kumar (SC)	01-01-1952	23-04-2005	Retired
35	III	2003-04	30-06-2004	B.Babu Rao (SC)	15-04-1952	06-02-2006	Retired
36	IV	2003-04	30-06-2004	M.Sudhakar	01-06-1963	20-06-2005	
37	V	2003-04	30-06-2004	K.Venkateswarlu (SC)	15-06-1968	28-06-2005	
38	V	2003-04	30-06-2004	L.Sandhya Rani	14-07-1965	24-02-2006	
39	IV	2003-04	30-06-2004	P.Pulliah (SC)	15-03-1969	20-06-2005	
40	IV	2003-04	30-06-2004	M.Swarna Latha	07-01-1968	20-06-2005	
41	VI	2003-04	31-07-2004	M.Vani Seshu	15-08-1949	06-12-2005	Retired
42	II	2003-04	31-07-2004	G.Sree Rama Rao	09-01-1956	13-03-2006	Retired

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2003-04							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
43	IV	2003-04	31-07-2004	B.Muralidhar	10-02-1962	20-06-2005	
44	I	2003-04	22-08-2004	K.Hari Babu	01-01-1949	23-04-2005	Retired
45	II	2003-04	22-08-2004	P.M.K.Murhty	04-05-1952	20-06-2005	Retired
46	III	2003-04	22-08-2004	K.Atchiah (SC)	01-04-1954	23-04-2005	Retired
47	III	2003-04	22-08-2004	M.Prasad (ST)	03-07-1954	23-04-2005	Retired
48	VI	2003-04	22-08-2004	K.Askhok	20-10-1954	06-12-2005	Retired
49	VI	2003-04	22-08-2004	A.Srinivasa Rao	16-08-1960	06-12-2005	
50	VI	2003-04	22-08-2004	K.Rama Krishna Rao	01-07-1951	06-12-2005	Retired
51	VI	2003-04	22-08-2004	K.Prabhakara Rao	12-12-1957	06-12-2005	Retired
52	VI	2003-04	22-08-2004	N.Surya Rao	04-10-1955	06-12-2005	Retired
53	VI	2003-04	22-08-2004	B.Raj Kumar	09-08-1954	06-12-2005	Retired
54	IV	2003-04	22-08-2004	P.Nagendra Prasad	14-10-1960	20-06-2005	
55	IV	2003-04	22-08-2004	R.Chandra Sekharam	15-07-1954	20-06-2005	Retired
56	I	2003-04	22-08-2004	L.Bhanu Prasad (SC)	06-06-1963	23-04-2005	
57	V	2003-04	22-08-2004	P.Swarna Kumar	15-10-1963	24-02-2006	
58	V	2003-04	22-08-2004	G.Balamurali Krishna	24-06-1960	24-02-2006	
59	V	2003-04	22-08-2004	G.Shivaraj	13-06-1953	23-04-2005	Retired
60	V	2003-04	22-08-2004	M.Venkataramaiah	16-07-1949	23-04-2005	Retired
61	V	2003-04	22-08-2004	B.Ilaiah	22-07-1947	23-04-2005	Retired
62	V	2003-04	22-08-2004	R.Govinda Rao	12-05-1960	24-02-2006	
63	III	2003-04	22-08-2004	Y.Srinivasa Rao	15-06-1964	23-04-2005	
64	III	2003-04	22-08-2004	T.Somasundara Prasad	24-10-1965	23-04-2005	
65	III	2003-04	22-08-2004	Y.Lakshmana Prasad	18-08-1961	23-04-2005	
66	III	2003-04	22-08-2004	A.V.Jogaiah	02-10-1954	23-04-2005	Retired
67	III	2003-04	22-08-2004	S.V.Satyanarayana Murhty	15-02-1951	06-02-2006	Retired
68	III	2003-04	22-08-2004	N.Balaramaiah (SC)	16-07-1953	06-02-2006	Retired
69	III	2003-04	22-08-2004	S.Vanajakshi (ST)	01-07-1960	23-04-2005	
70	III	2003-04	22-08-2004	K.Venkataiah (SC)	12-04-1948	23-04-2005	Retired
71	III	2003-04	22-08-2004	Syed Ahmad Ali	06-11-1946	23-08-2004	Retired
72	III	2003-04	22-08-2004	Ch.Omkareswara Rao	07-01-1955	23-04-2005	Retired
73	III	2003-04	22-08-2004	K.V.R.Kumar	23-03-1961	23-04-2005	
74	III	2003-04	22-08-2004	S.Srinivasa Rao	01-06-1965	23-04-2005	
75	III	2003-04	22-08-2004	B.Venkateswarlu	07-09-1951	23-04-2005	Retired
76	III	2003-04	22-08-2004	D.Hanumantha Rao	14-01-1948	23-04-2005	Retired
77	III	2003-04	22-08-2004	V.Adinarayana Rao (SC)	01-06-1948	23-04-2005	Retired
78	IV	2003-04	22-08-2004	N.Varalakshmi Devi	10-07-1965	20-06-2005	
79	I	2003-04	22-08-2004	Y.V.Sriramulu	01-03-1966	23-04-2005	
80	I	2003-04	22-08-2004	S.Prakash	09-03-1967	20-01-2006	
81	I	2003-04	22-08-2004	Y.Aniruddu	03-05-1957	23-04-2005	
82	II	2003-04	22-08-2004	M.Prem Kumar (SC)	27-10-1967	13-03-2006	
83	II	2003-04	22-08-2004	V.S.S.R.Prasad	15-04-1955	13-03-2006	Retired
84	II	2003-04	22-08-2004	S.Satyanarayana	27-03-1947	22-08-2004	Retired
85	II	2003-04	22-08-2004	S.Gopala Rao	15-03-1947	22-08-2004	Retired

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2003-04							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
86	II	2003-04	22-08-2004	K.Rama Mohan Rao	02-02-1947	22-08-2004	Retired
87	II	2003-04	22-08-2004	M.Govindachari	31-07-1948	13-03-2006	Retired
88	II	2003-04	22-08-2004	S.Seetha Rama Raju	06-01-1951	13-03-2006	Retired
89	II	2003-04	22-08-2004	M.V.Ch.Acharyulu	06-08-1955	13-03-2006	Retired
90	II	2003-04	22-08-2004	S.Devakar	01-08-1958	13-03-2006	Retired
91	II	2003-04	22-08-2004	Ch.Raja Kumar	15-12-1947	22-08-2004	Retired
92	II	2003-04	22-08-2004	T.Venkata Rao (SC)	05-10-1951	13-03-2006	Retired
93	II	2003-04	22-08-2004	Ch.Shyam Prasad (SC)	05-09-1952	20-06-2005	Retired
94	II	2003-04	22-08-2004	Y.Rajendra Prasad (SC)	15-06-1947	20-06-2005	Retired
95	II	2003-04	22-08-2004	S.Asheervadham (SC)	15-07-1949	20-06-2005	Retired
96	II	2003-04	22-08-2004	B.Venkata Ratnam (SC)	10-01-1950	20-06-2005	Retired
97	II	2003-04	22-08-2004	K.Malleswari (SC)	15-07-1951	20-06-2005	Retired
98	II	2003-04	22-08-2004	P.Sowdamini (SC)	01-06-1954	20-06-2005	Retired
99	II	2003-04	22-08-2004	K.Sekhara Rao (SC)	01-06-1954	20-06-2005	Retired
100	II	2003-04	22-08-2004	J.Chandranthamma (SC)	07-01-1952	13-03-2006	Retired
101	II	2003-04	22-08-2004	M.Krupa Rao (SC)	24-12-1951	13-03-2006	Retired
102	II	2003-04	22-08-2004	P.V.Prasada Rao	12-07-1959	19-08-2006	
103	II	2003-04	22-08-2004	B.Vinod Kumar (SC)	10-08-1965	19-08-2006	
104	II	2003-04	22-08-2004	Ch. Gopala Krishna Murhty	10-08-1949	20-06-2005	Retired
105	II	2003-04	22-08-2004	U.Indira Kumari (SC)	05-09-1958	20-06-2005	
106	II	2003-04	22-08-2004	V.K.S.Sayanna	25-04-1950	20-06-2005	Retired
107	II	2003-04	22-08-2004	M.Simhachalam Naidu	05-06-1954	08-01-2007	Retired
108	IV	2003-04	22-08-2004	Ch.Aruna Kumari	05-06-1968	20-06-2005	
109	IV	2003-04	22-08-2004	D.Nagendra Reddy	06-10-1959	20-06-2005	
110	IV	2003-04	22-08-2004	B.Ramanjaneya Prasad	06-07-1957	06-02-2006	
111	I	2003-04	22-08-2004	K.Nagaraju	12-06-1968	23-04-2005	
112	I	2003-04	22-08-2004	G.Rani Mohan	01-06-1966	20-01-2006	
113	VI	2003-04	22-08-2004	K.Murali Mohan	02-10-1968	16-02-2006	
114	VI	2003-04	22-08-2004	G.Madhusudan Reddy	15-04-1965	16-02-2006	
115	VI	2003-04	22-08-2004	M.Devender Reddy	02-10-1965	16-02-2006	
116	VI	2003-04	22-08-2004	M.Dhanunjaya Naik (ST)	01-12-1962	16-02-2006	
117	VI	2003-04	22-08-2004	Madhusudana Chari	04-05-1966	16-02-2006	
118	VI	2003-04	22-08-2004	A.Shiva Kumar	24-09-1967	16-02-2006	
119	VI	2003-04	22-08-2004	L.Narahari	08-08-1961	16-02-2006	
120	VI	2003-04	22-08-2004	P.Venkatesam	19-12-1967	09-06-2006	
121	VI	2003-04	22-08-2004	Meena Kulkarni	07-05-1964	09-06-2006	
122	VI	2003-04	22-08-2004	K.Narasinga Rao	14-08-1961	09-06-2006	
123	VI	2003-04	22-08-2004	P.Sridhar Reddy	19-05-1971	09-06-2006	
124	VI	2003-04	22-08-2004	K.Sunder Rao	01-08-1957	09-06-2006	
125	VI	2003-04	22-08-2004	N.Bhaskar Reddy	12-02-1962	09-06-2006	
126	VI	2003-04	22-08-2004	P.Rajendra Prasad	07-05-1964	09-06-2006	
127	VI	2003-04	22-08-2004	P.Bheemla (ST)	14-05-1964	09-06-2006	
128	VI	2003-04	22-08-2004	K.Laxman Rao	02-01-1962	09-06-2006	

INTEGRATED SENIORITY LIST OF DCTOS OF ALL ZONES FOR THE PANEL YEAR 2003-04							
Sl.No.	Zone	Panel Year	Date of arising vacancy	Name of the Individual	Date of Birth	Date of appointment	Working/ Retired
129	VI	2003-04	22-08-2004	M.Vijay Kumar (SC)	03-02-1967	14-08-2006	
130	VI	2003-04	22-08-2004	P.Kanaka Durga	07-06-1961	14-08-2006	
131	VI	2003-04	22-08-2004	T.Rajendra Kumar	22-01-1969	14-08-2006	
132	VI	2003-04	22-08-2004	V.Laxman Rao	22-02-1965	09-06-2006	
133	V	2003-04	31-10-2004	E.Narsaiah	12-11-1946	31-10-2004	Retired
134	IV	2003-04	31-08-2004	P.Padmavathi (SC)	03-05-1965	06-02-2006	
135	IV	2003-04	31-08-2004	T.Ramesh Kumar Reddy	25-10-1964	06-02-2006	

J. SYAMALA RAO,
Commissioner (CT).

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